

EXHIBIT O

KENNETH SHOUP
NOT DEAD YET vs. PRIDE SOLUTION

November 13, 2015

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1 UNITED STATES DISTRICT COURT FOR THE

2 NORTHERN DISTRICT OF ILLINOIS

3 EASTERN DIVISION

4 NOT DEAD YET MANUFACTURING, INC.,)

5 Plaintiff,)

6 vs.) No. 13-CV-3418

7 PRIDE SOLUTION, LLC, MAY WES)

8 MANUFACTURING,)

9 Defendants.)

10 Deposition of KENNETH E. SHOUP, called

11 for examination, taken pursuant to notice,

12 agreement and by the provisions of the Rules of

13 Civil Procedure for the United States District

14 Courts pertaining to the taking of depositions,

15 taken before PATRICIA A. ARMSTRONG, a Notary

16 Public within and for the County of DuPage, State

17 of Illinois, and a Certified Shorthand Reporter,

18 No. 084-1766, of said state, taken at 120 South

19 Riverside Plaza, Suite 1200, Chicago, Illinois, on

20 the 13th day of November, 2015 at 1:00 p.m.



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1 Q. No, you do not know, or no, there was
2 no investigation?

3 A. We did not investigate that.

4 Q. Do you agree with that statement?

5 A. Which statement?

6 Q. The statement that we talked about
7 that is contained in the first page?

8 A. I'm sorry. I didn't hear you.

9 Q. Do you agree with the statement that
10 the entire delay between the date the claim was
11 due under 37 CFR1.78 and the date of the filing of
12 the claim for benefit of the prior five
13 application was unintentional?

14 A. Yes.

15 Q. What is the factual basis for that
16 statement?

17 A. That it was unintentional?

18 Q. Yes.

19 A. Joe Kuo called me and said they had
20 made a mistake and that he had corrected it.

21 Q. That's the entirety of your basis?

22 A. That's it.

23 Q. Do you recall what the mistake was
24 specifically?



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1 A. That he didn't tie latter into
2 previous.

3 Q. Why was that a mistake?

4 A. It didn't tie everything that we had
5 done to the very first application.

6 Q. And it was supposed to?

7 A. It should have, yes. That was the
8 intent.

9 Q. Intent based upon what?

10 A. What I thought was supposed to
11 happen.

12 Q. What did you think was supposed to
13 happen?

14 MR. KUO: Asked and answered. You can
15 answer it again.

16 BY THE WITNESS:

17 A. I'm sorry. Now, I got lost. Can you
18 repeat that question?

19 MR. DU FAULT: Read it back.

20 (WHEREUPON, the record was read by
21 the reporter.)

22 BY THE WITNESS:

23 A. That everything would be tied
24 together.

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1 BY MR. DU FAULT:

2 Q. By "tied together," what do you mean?

3 A. That one patent would be hooked to
4 the other as in a progression.

5 Q. My question is: Why did you think
6 that they would all be tied together?

7 A. Because there would be no reason not
8 to.

9 Q. Do you know if in the past five
10 years, NDY has ever had to file a petition to
11 claim priority back for an unintentionally delayed
12 claim --

13 A. No.

14 Q. (Continuing.) -- of domestic benefit?

15 A. No.

16 MR. KUO: Other than the one we are talking
17 about?

18 BY MR. DU FAULT:

19 Q. Other than the one we are talking
20 about?

21 A. No.

22 Q. Do you know if your Counsel has had
23 to file any such things in the past five years?

24 A. No.

